



U.S. Department
of Transportation
**Federal Highway
Administration**

Memorandum

Subject: Final Rule for Implementing Section 7
of the Endangered Species Act

Date: JUL 16 1986

From: Director, Office of Environmental Policy
Washington, D.C. 20590

Reply to
Attn. of: HEV-20

To: Regional Federal Highway Administrators
Regions 1-10, and Direct Federal Program Administrator

On June 3, 1986, the Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) issued final rules which establish procedural regulations governing interagency cooperation under Section 7 of the Endangered Species Act, as amended. These rules became effective July 3, 1986, and replaced the rules issued on January 4, 1978. Five copies are attached for your information.

In general, we feel the new regulations do not significantly change our present policy or procedures. These regulations encourage early coordination which reinforces our desire for increased coordination and early resolution of issues.

Section 402.08 permits the responsible Federal agency to officially designate a non-Federal representative to conduct informal consultations and to prepare the biological assessments. This action formalizes the current procedure. This office will send to the FWS/NMFS a single letter for FHWA designating each State highway agency as its representative under Section 402.08 and provide copies to the field for your records.

The regulation (Section 402.12(c)) allows the Federal agency or designated non-Federal representative to submit to the FWS/NMFS a written notification of the species and critical habitat that is being included in the biological assessment in lieu of a request for a species list.

Guidance material that updates Section 9 of the Environmental Guidebook will be available in the near future. Please direct any questions or comments concerning the regulations and/or suggestions for the revised guidance to Mr. Charles DesJardins, Environmental Analysis Division, at FTS 426-9173 (366-2068 after July 15).

Ali F. Sevin

Attachments (5)